

**THIS IS A TWO-SIDED DOCUMENT**

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Order Granting Variance <b>2022-0261</b></p>
	<p>Date Issued: March 15, 2023</p>
<p>In the Matter of the Application of <b>NORMA J. GRIFFIN &amp; DUANE J. GRIFFIN</b> for a variance pursuant to Executive Law §806</p>	<p>To the County Clerk: Please index this Order in the grantor index under the following names: <b>1. Norma J. Griffin</b> <b>2. Duane J. Griffin</b></p>

**SUMMARY AND AUTHORIZATION**

Norma and Duane Griffin are granted a variance, as conditioned herein, from the applicable 75-foot shoreline structure setback required by Section 806(1)(a)(2) of the Executive Law (Adirondack Park Agency Act or APA Act), to allow for the expansion in height, width and footprint of a pre-existing single family dwelling located approximately 20 feet from the mean high water mark of Lake Eaton, in an area classified Low Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Long Lake, Hamilton County.

Nothing contained in this order shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

**APPLICABLE LAWS**

Section 806(1)(a)(2) of the APA Act establishes a minimum shoreline setback of 75 feet from the mean high water mark of Lake Eaton for all accessory structures and principal buildings greater than 100 square feet in size. The applicants requested a variance from this structure setback requirement pursuant to § 806(3)(a) of the APA Act.

**RELEVANT FACTS AND BACKGROUND**

**Variance Site**

The variance site is a 0.66±-acre parcel of land identified on Town of Long Lake Tax Map Section 25.010, Block 1, as Parcel 1.200, and described in a deed from Duane J. Griffin and Norma J. Griffin to the Duane J. Griffin and Norma J. Griffin 2014 Long Lake Trust, dated November 25, 2014, and recorded December 3, 2014 in the Hamilton County Clerk's Office under Instrument Number 2014-3059.

The southern boundary of the variance site contains approximately 100 feet of shoreline on Lake Eaton. The site is improved by an existing single family dwelling constructed in 1950, a pit privy, and a dock. The single family dwelling and the privy are wholly within the 75-foot shoreline setback. The existing pit privy is approximately 70 feet from the mean high water

mark of Lake Eaton and the dwelling is approximately 20 feet from the mean high water mark at its closest point. The single family dwelling is 12 feet in height and contains 312 square feet of floor space. The dwelling has a deck on the shoreline side, contains one bedroom and does not contain a bathroom. There is a steep slope (approximately 19%) to the rear of the single family dwelling.

The applicants received grant funding from New York State, via the Hamilton County Soil and Water Conservation District, for installation of an on-site wastewater treatment system on the variance site. The on-site wastewater treatment system was constructed in October 2022 and is located at the northern end of the variance site. The leaching component of the on-site wastewater treatment system is located greater than 100 feet from the mean high water mark of Lake Eaton.

The portion of the 0.66-acre project site located outside the shoreline setback is occupied by the on-site wastewater treatment system, the driveway, large-diameter trees and an overhead utility corridor.

The variance site is dominated by trees, including several large-diameter white pine trees. The pre-existing single family dwelling is almost completely screened from view from Lake Eaton.

Lake Eaton is a navigable water body that has approximately 5.0 miles of shoreline and contains seasonal residential development parcels classified Low Intensity Use, the Lake Eaton Department of Environmental Conservation Campground (Intensive Use), and Wild Forest lands.

### **Variance Request**

The variance request involves an expansion of the dwelling to add a bathroom, bedroom, and living space resulting in:

- An increase to the height of the pre-existing single family dwelling by 7.37 feet, resulting in an overall structure height of 19.37 feet; and
- An expansion of the pre-existing single family dwelling by 165 square feet on the western side of the structure, resulting in an increased footprint and an 11-foot wider structure as viewed from the shoreline of Lake Eaton.

The expansion will be no closer to the mean high water mark than the existing dwelling. The expansion will be constructed in the style and exterior color of the existing dwelling. Any stormwater runoff resulting from the 165 square feet of new impervious surface area will be treated by infiltration trenches under the expansion.

The expanded single family dwelling will be served by the existing on-site wastewater treatment system, and use of the existing pit privy will be discontinued.

With the exception of the removal of one striped maple sapling, no tree removal is proposed as part of this variance request.

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The applicants minimized the request prior to submitting the variance application by reducing the proposal from a full second story to a partial second story on the non-shoreline half of the structure.

The variance proposal is shown on the following maps and plans (Variance Plans):

- A nine-sheet set of un-titled plans prepared by Duane Griffin, dated November 15, 2022 and received by the Agency on November 16, 2022 (Building Plans); and
- A three-sheet set of un-titled plans prepared by Wiley Lavigne, P.E., dated November 29, 2022 and received by the Agency on January 23, 2023 (Site & Septic Plans).

Sheet one of each of the above referenced plans are attached as part of this order for reference.

### **PROCEDURAL HISTORY**

Following receipt of the complete variance application, the Agency notified all parties as required by the Agency regulations. On February 22, 2023, the Agency held a public hearing on the variance request. The hearing was attended by Agency staff and the applicant. No public comments were received.

### **DISCUSSION**

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 806(1)(a)(2) of the APA Act. The Agency has considered the standards and factors set forth in 9 NYCRR § 576.1(b)-(c).

#### **§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.**

The public purpose served by the Agency's structure setback requirements include protection of the water quality and aesthetics of Lake Eaton.

Denial of the variance request would not allow the applicants to expand the pre-existing single family dwelling and meet their objectives to utilize the new on-site wastewater treatment system and increase the interior living area space.

As proposed, the project will protect and enhance the water quality of Lake Eaton, as expansion of the dwelling will allow for utilization of the on-site wastewater treatment system and discontinue use of the leaching pit privy within the shoreline setback. The project will further protect the water quality of Lake Eaton because the footprint expansion of the dwelling will contain stormwater infiltration features to treat the new impervious surface area. The quality of the shoreline will be protected by retention of all screening vegetation between the single family dwelling and the shoreline of Lake Eaton.

#### **§ 576.1(c)(1): Whether the application requests the minimum relief necessary.**

The applicants reduced their original plan of a full second story prior to their variance application, resulting in a partial second story on the non-shoreline half of the dwelling.

The proposal will result in the addition of a bathroom and one bedroom to the existing one-room dwelling. The expanded dwelling will be no closer to the mean high water mark than the existing dwelling and retain all existing screening vegetation.

**§ 576.1(c)(2): Whether granting the variance will create a substantial detriment to adjoining or nearby landowners.**

Single family dwellings and residential uses characterize the area surrounding the variance site on the eastern shoreline, and Lake Eaton Campground Intensive Use area is nearby. The western shoreline of Lake Eaton is primarily a Wild Forest area. The applicants have designed the dwelling expansion in a manner that retains the character and appearance of the shoreline by keeping the structure the same distance from the shoreline and maintaining existing vegetation. In addition, the height increase will not impact views of the lake from neighboring properties. The expanded single family dwelling will be screened by the existing trees.

One letter in support of the variance request from an adjoining landowner was submitted with the variance application.

**§576.1(c)(3): Whether the difficulty can be obviated by a feasible method other than a variance.**

The applicants considered several alternatives to the variance request. Construction outside the shoreline setback was found not feasible due to the small lot size; the remainder of the lot's usable space is occupied by the on-site wastewater treatment system, the driveway, and an overhead utility corridor. Expansion to the rear of the dwelling was also found not feasible due to the impacts of excavating into (and then retaining) the steep slope directly behind the dwelling and the large trees that would need to be removed. Enclosing the existing deck on the shoreline side of the dwelling would require removal of several large trees and would increase the visibility of the structure from Lake Eaton and was therefore found not feasible. Construction of a bathroom facility within the existing structure was found not feasible because the existing dwelling is very small, with a one-room configuration, and also does not achieve the objective of increasing living space.

**§ 576.1(c)(4): The manner in which the difficulty arose.**

The variance site is 0.66± acres in size, with the parcel constrained by Lake Eaton to the south, the property lines to the east and west, and a steep slope, the driveway, on-site wastewater treatment system, and overhead utility line to the north.

The existing single family dwelling was constructed in 1950 and has been in the applicant's family since that time. The property has not substantially changed since construction of the dwelling.

**§ 576.1(c)(5): Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.**

Use of the new on-site wastewater treatment system located more than 100 feet from the mean high water mark of Lake Eaton and subsequent discontinuation of use of the leaching pit privy within the shoreline setback will result in an overall benefit to the water quality of Lake Eaton.

Changes to the variance site over time could alter the potential for adverse effects from construction of the expanded single family dwelling. Imposition of a five-year time limit on the requested variance will mitigate these potential impacts.

Construction of the dwelling expansion without stormwater and erosion controls could cause erosion or surface runoff and lead to adverse changes to water quality and the aesthetic character of Lake Eaton. In addition, expansion of the dwelling without restrictions on vegetative cutting, exterior lighting, building color, and compliance with building plans could result in impacts to the aesthetic character of the shoreline of Lake Eaton.

**§ 576.1(c)(6): Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above.**

The potential for adverse effects to the water quality and aesthetics of Lake Eaton will be ameliorated by compliance with the following conditions:

1. This authorization shall expire unless recorded in the Hamilton County Clerk's Office within 60 days of the date of issuance.
2. This order is binding on the applicants, all present and future owners of the project site, and all persons undertaking all or a portion of the project.
3. The authorization to undertake the height, width and footprint increase of the existing single family dwelling shall expire five years from the date this order is recorded in the Hamilton County Clerk's office, unless construction of the structure has been completed in accordance with the plan sheets by that date or written authorization has been obtained from the Agency extending the deadline for construction.
4. The project shall be undertaken as depicted on the plan sheets referenced herein. Any changes to the locations, sizes, dimensions, or other aspects of the structures shall require a new or amended Agency order or a letter of compliance. Only the construction of the height increase of 7.37 feet, the width increase of 11 feet and the footprint increase of 165 square feet depicted on the plan sheets referenced herein is authorized by this order.
5. All exterior building materials, including roof, siding and trim, of the single family dwelling expansion authorized herein shall match the existing family dwelling.
6. Any new free-standing or building-mounted outdoor lights associated with the expanded single family dwelling authorized herein on the variance site shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Lake Eaton or adjoining property.
7. Within 75 feet of the mean high water mark of Lake Eaton, no trees, shrubs or other woody-stemmed vegetation may be cut or otherwise removed or disturbed on the variance site without prior written Agency authorization, except for the removal of the one striped maple sapling within the dwelling expansion area or the removal of dead or

diseased vegetation, rotten or damaged trees, or any vegetation that presents a safety or health hazard.

8. Upon completion of the dwelling expansion authorized herein, use of the privy structure as a leaching pit privy shall be discontinued.

**CONCLUSION**

The Agency has considered all of the standards and factors for issuance of a variance as set forth in 9 NYCRR Parts 576. The Agency hereby finds that the applicant's variance request meets the approval criteria, provided the authorized activities are undertaken as described herein and in compliance with the conditions set forth above.

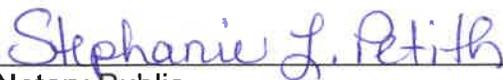
ORDER issued this 15<sup>th</sup> day  
of March, 2023.

ADIRONDACK PARK AGENCY

BY:   
Barbara A. Rice, Executive Director

STATE OF NEW YORK  
COUNTY OF ESSEX

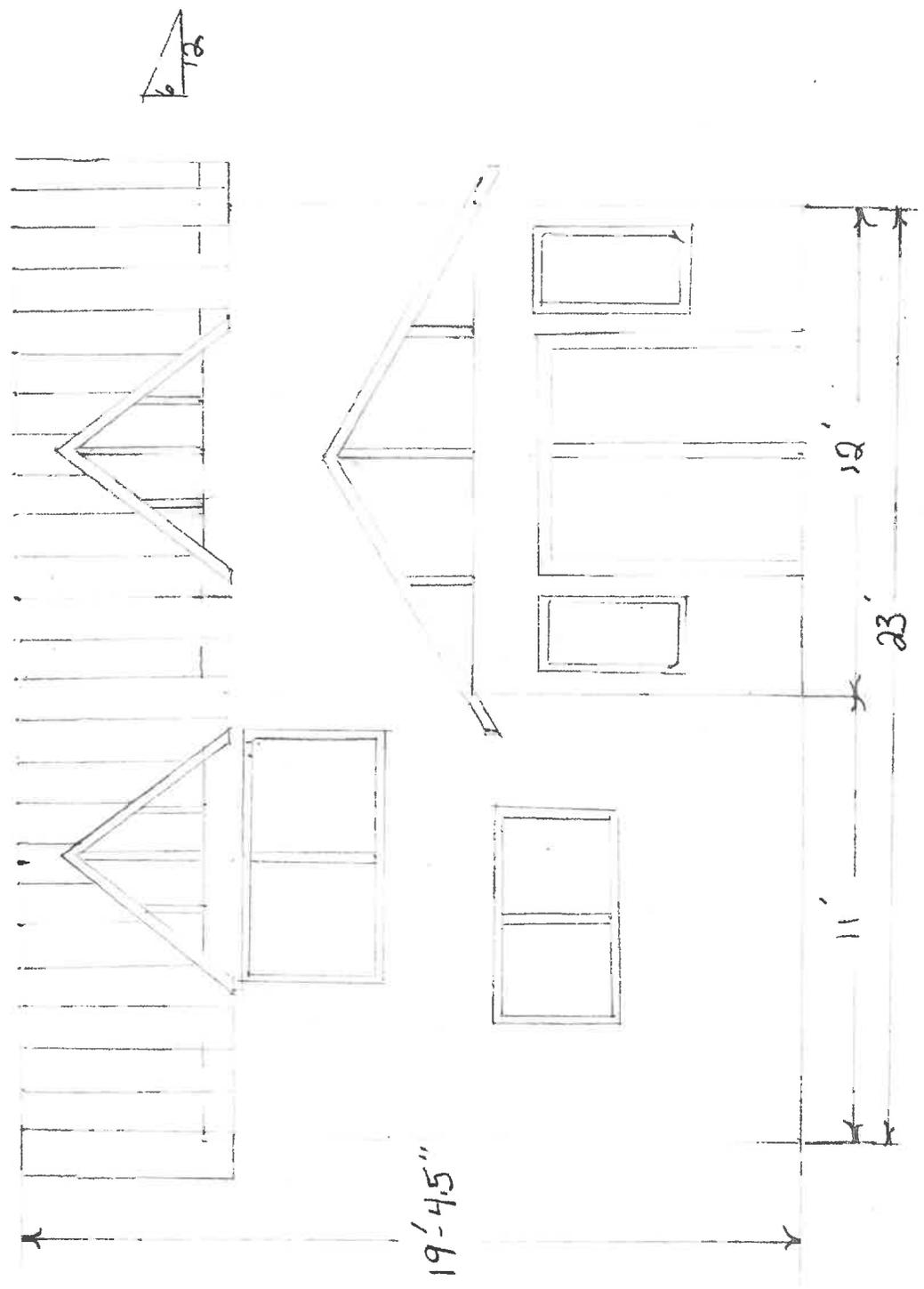
On the 15<sup>th</sup> day of March in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Barbara A. Rice, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

Stephanie L. Petith  
Notary Public, State of New York  
Reg. No 01PE6279890  
Qualified in Franklin County  
Commission Expires April 15, 2025

NEW YORK STATE OF OPPORTUNITY  
Adirondack Park Agency  
**RECEIVED**  
Date: November 15, 2022

NEW YORK STATE OF OPPORTUNITY  
Adirondack Park Agency  
**FINAL**  
P2022-0261

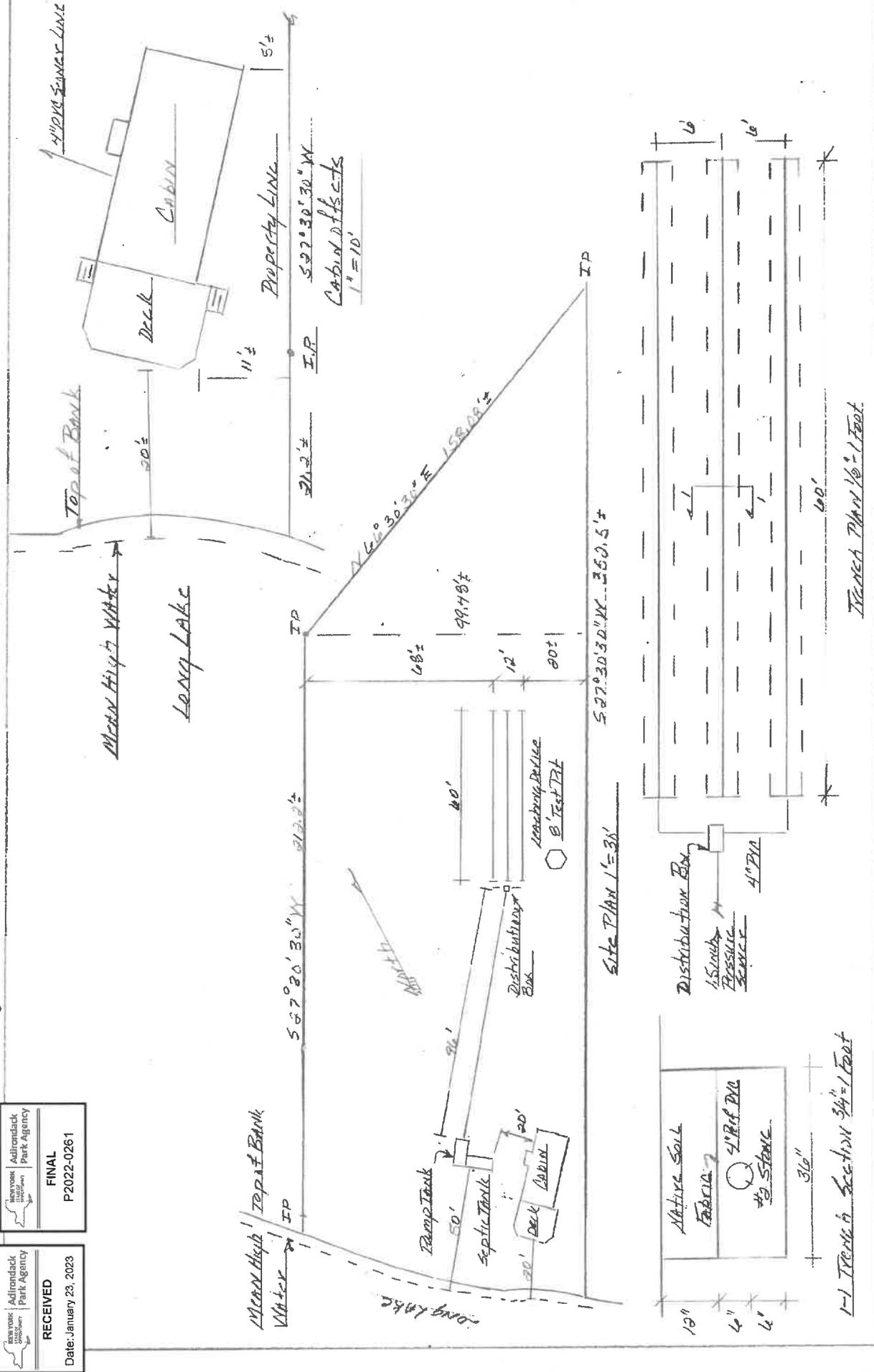
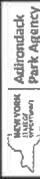
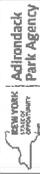


EXISTING AND <sup>1/4"</sup> PROPOSED BUILDING

Duane Griffin  
*[Signature]* 11/15/22

RECEIVED  
Date: January 23, 2023

FINAL  
P2022-0261



TRENCH PLAN 1" = 1 FOOT

1-1 TRENCH SECTION 3/4" = 1 FOOT